

SUNSHINE REFORM TASK FORCE MEETING MINUTES

**Thursday, February 1, 2007
6:00pm – 8:30pm**

City Hall, W-118

Present: Ed Rast, Strong Neighborhoods Initiative PAC; Ken Podgorsek, United Neighborhoods of SCC; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Dan Pulcrano, Silicon Valley Leadership Group; Bob Brownstein, South Bay Labor Council; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Edward Davis, Orrick Law Firm (Legal Counsel); Brenda Otey, At Large-Representative; Mary Ann Ruiz, Parks and Recreation Commission; Karl Hoffower, Citizens Commission on Human Rights; Margie Matthews, Former Councilmember; Dave Zenker, Falls Creek Neighborhood Association.

Absent: Judy Nadler, Markkula Center for Applied Ethics; Susan Goldberg, San Jose Mercury News; Bobbie Fischler, League of Women Voters.

Staff: Dottie Disher, Office of the City Clerk; Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Sheila Tucker, Office of the City Manager; Tom Manheim, Office of the City Manager.

I. Approval of January 18, 2007 Meeting Minutes

The Task Force deferred approval of the January 18, 2006 meeting minutes to the February 15, 2006 Task Force meeting.

II. Comments from Chair

Chair Rast announced that Item IV, B iii on the 2/1/07 agenda, “Disclose the Calendars of the Mayor and Councilmembers”, will be deferred to the February 15, 2007 Task Force meeting.

III. Review of Meeting Material

Staff provided an overview of the documents for the meeting.

Sunshine Reform Task Force

Meeting Minutes

February 1, 2007

Page 2

IV. Wrap-Up Discussion on Public Meetings

A. Discussion on of Ancillary Bodies and Policy Bodies

Task Force member Ken Podgorsek led the discussion on Ancillary Bodies and Policy Bodies based on the two documents submitted on January 26, 2007. The Task Force discussed the following comments and recommendations:

1. Section E of *Policy Bodies* is similar to Section B of *Ancillary Bodies*. Did the Task Force intend for this redundancy?
2. Clarity is needed on what “per year” means. Is it operating funds, and on what basis?
3. Staff noted a clearer distinction was needed between a Policy Body and Ancillary Body such as a Policy Body includes a voting or non-voting member of the City Council.
4. Eliminate the core City service definition/requirement and rely on a threshold e.g., receiving \$200,000, representing 50% of their operating budget. If an entity is receiving a substantial amount of tax payer dollars to provide a service, its work should be transparent regardless of the type of service the entity is providing.
5. Entities that manage public facilities should not be covered by the definition of an ancillary body.
6. Combining businesses and non-profits with government bodies in the definition of an ancillary body is cumbersome and logically inconsistent. Add a third section including a definition of non-governmental organizations (NGO's) with its own set of requirements.
7. It was recognized several non-profits and other non government entities that are captured by the current definition of an ancillary body need additional oversight. However, instead of defining these entities as an ancillary body, it was suggested to require these entities to report to a policy body of the City on a regular basis (annually or bi-annually).
8. Eliminate definition of NGOs all together and provide some kind of oversight mechanism. A suggestion was made to have NGOs undergo a 6-month review and regularly report to a policy body.
9. The following types of meetings should be exempt from the requirements of a policy body: (1) meetings that discuss an organization's operations that are not funded by the City of San José; (2) meetings that do not take place within the City of San José; and (3) meetings that are limited to administrative matters that normally a policy body will not discuss (based upon Bob Brownstein's 12/20/07 Memorandum RE: Modifications of Policy Body Language).

Sunshine Reform Task Force

Meeting Minutes

February 1, 2007

Page 3

10. Meetings of Advisory Committees that make funding recommendations on the use of CDBG and HNVF funds should be transparent and subject to the Brown Act.
11. The budget process is the opportunity to get information upfront on NGO's proposals and ask questions.
12. Examine the contractual relationship with NGOs and potential exemptions for pre-existing contract conditions.
13. Access to meetings of NGOs should not be mandated if access by the public would put the entity at a competitive disadvantage or if a pre-existing contract would otherwise prohibit such access.
14. Review the definition of health and safety and consider narrowing the definition to police, fire, and code enforcement.
15. Consider the transparency needed of entities that will be managing community centers.
16. With entities that provide services in multiple jurisdictions, transparency should be required solely to discussions and decisions that impact San José.
17. If we exclude the small groups and large corporations because it is not realistic, we are limiting the non-profits and large corporations that can and will work with the City. A balance is needed to provide transparency to small, medium and large entities.
18. There is a need to address the application of requirements when a Policy Body reports to a Policy Body, particularly related to the 10 day requirement for staff reports.

Public Comment: Dean Munro, Mayor's Liaison to the Task Force, suggested three ways to understand and track the work of a non-profit: (1) require their budget to be a public document; (2) require their monthly financials to be a public document; (3) require their meeting to be open to the public. The internet has made it easy to access information.

Public Comment: James Chadwick noted an inherent problem with the definition of a Policy Body, if it includes corporate entities like ING, is that they are not going to open their Board meetings. Legally it may not be permissible. Mr. Chadwick recommended addressing this concern through the definition or by providing exceptions when there is a corporate entity that can not do business with the City under the requirements of the Sunshine Ordinance.

Action Item: Based upon on input from the Task Force, staff will work with Legal Counsel(s) to return with clarifying languages that address the issues discussed.

B. Review of Pilot Program and Reed Reforms

This item was not discussed.

Sunshine Reform Task Force

Meeting Minutes

February 1, 2007

Page 4

V. Update February 6, 2007 Council Meeting

The City Council will discuss and consider taking action on a number of Reed Reforms at the Council meeting on February 6, 2007. The item will be heard first in the evening session beginning at 7:00.

VI. Upcoming Agenda and Work Plan

The Task Force agreed to establish subcommittees to discuss the remaining issues related to the public meetings, closed session, and public information provisions and make recommendations to the Task Force. The subcommittees are comprised of the following Task Force members:

| <u>Category</u> | <u>Task Force Members</u> |
|------------------------|--|
| Public Meeting | Ken Podgorsek, Bob Brownstein, and Ed Rast |
| Closed Session | Susan Goldberg, Brenda Otey, Karl Hoffower, and Marianne Ruiz |
| Public Information | Bobbie Fischler, Virginia Holtz, and Dan Pulcrano, and Dave Zenker |

The Task Force agreed the Subcommittee meetings will not be subject to the Brown Act as they are ad hoc committees comprised of less than a quorum of the Task Force.

Staff noted revisions were made to the scope and agenda for the February 24, 2007 all-day Saturday meeting as discussed at the last Task Force meeting. The moderator will be Chris Arriola, Immediate Past President, S.C.C. Bar Association. The following panelists are confirmed:

Barbara Attard, Independent Police Auditor
Rick Callender, National Association for the Advancement of Colored People
James Chadwick, Sheppard Mullin Law Firm (Mercury News)
Kyra Kazantzis, Public Interest Law Firm
Captain Gary Kirby, San Jose Police Department
Joanne McCracken, District Attorney's Office
Mark Schlosberg, American Civil Liberties Union
John Tennant, General Counsel, SJPOA and SFPOA

The panelists have been asked to submit a bio and 1 page summary of their concerns to staff by February 15, 2007. Task Force members should also provide any comments to include in the handout packet by February 15, 2007.

VII. Public Comment

Sunshine Reform Task Force

Meeting Minutes

February 1, 2007

Page 5

Upon a motion by Ken Podgorsek, seconded by Margie Matthews, the Task Force unanimously agreed to adjourn the meeting.

The meeting adjourned at 8:45 p.m.